



July 23, 2019

By Email: nancy_dipaolo@doioig.gov

Gail Ennis
Acting Inspector General
U.S. Department of the Interior
1849 C Street NW - Mail Stop 4428
Washington, D.C. 20240

Re: Supplemental Information Regarding Request for Investigation into the Interior Department's FOIA Awareness Process

Dear Ms. Ennis:

Supplementing a letter we sent you last month, Campaign for Accountability ("CfA") and Western Values Project ("WVP") write to provide you with additional examples of political interference in the processing of Freedom of Information Act ("FOIA") requests at the Department of the Interior ("DOI").

Background

On June 17, 2019, CfA and WVP, along with three other public interest watchdog groups, requested that the Inspector General open an investigation into DOI's "Awareness Process for Freedom of Information Act Productions" ("Awareness Process").¹ News reports and public correspondence revealed how political appointees at DOI had utilized the Awareness Process to interfere with the release of documents in response to FOIA requests.

For example, the letter mentioned a FOIA request from WVP seeking correspondence between National Park Service ("NPS") congressional Liaison Elaine Hackett and Lolita Zinke, the wife of then-Interior Secretary Ryan Zinke.² On May 22, 2019, *Roll Call* reported that 80 pages designated to be released in response to the request were removed by Heather Swift, the communications director for Secretary Zinke.³ According to *Roll Call*, "[P]olitical officials were

¹ Memorandum from Cindy Cafaro, Departmental FOIA Officer, to Assistant Secretaries, et. al., May 24, 2018, available at https://www.doi.gov/sites/doi.gov/files/uploads/awareness_process_memo_final.pdf; Campaign for Accountability, Western Values Project, et al., Request for Investigation into Whether the Interior Departments' FOIA Awareness Process is Lawful, June 17, 2019, available at <https://campaignforaccountability.org/wp-content/uploads/2019/06/IG-Complaint-Interior-FOIA-Awareness-6-17-19-Exhibits.pdf>.

² FOIA Request from Chris Saeger, Executive Director of Western Values Project, to Charis Wilson, FOIA Officer for the National Park Services, June 8, 2018, No. NPS-2018-00843, attached as Exhibit A.

³ Jacob Holzman, Interior Department Policy let Political Appointees Review FOIA Requests, *Roll Call*, May 22, 2019, available at <http://www.rollcall.com/news/congress/interior-department-policy-let-political-appointees-review-foia-requests>.

alerted that the request was projected for release the following week. Ryan Zinke's politically appointed communications director, Heather Swift, interceded with the records official."⁴

New Information

FOIA Regarding Sec. Zinke's Threats to Punish Alaska

In recent weeks, WVP has uncovered evidence demonstrating that DOI officials employed the Awareness Process to interfere with three additional FOIAs. On July 27, 2017, WVP submitted a FOIA request seeking records regarding Secretary Zinke's threat to retaliate against Alaska after the state's senior senator, Lisa Murkowski, voted against a measure to repeal the Affordable Care Act.⁵ After DOI failed to respond to the request, WVP initiated litigation on August 31, 2017.⁶ In November 2017, DOI agreed to release records to WVP on a monthly basis.

On April 17, 2018, DOI issued its third partial response to the request and released 469 pages of records.⁷ Emails between DOI officials, however, indicate that a career FOIA official identified 487 pages of responsive material to be released. WVP obtained the emails about the request in response to a subsequent FOIA request.⁸

On April 10, 2018, Justin P. Wilkinson, a DOI FOIA analyst, sent an email to several political appointees that contained a 487-page attachment designated as responsive WVP's request.⁹ The email said the document was "scheduled to be produced this Friday, April 13, 2018."¹⁰ On April 11, 2018, Lori Mashburn, who was at the time the White House Liaison and Adviser to the Secretary, responded by writing, "I have a few questions/concerns about some of the documents included."¹¹ Though her questions were redacted, Mr. Wilkinson responded the following day to say that he concurred with comments and "applied them to the records."¹² Laura Rigas, DOI's Communications Director at the time, then emailed the chain and asked to "see the new updated package to review."¹³ Ms. Mashburn's intervention appears to have resulted in the removal of 18 pages that should have been released to WVP.

⁴ *Id.*

⁵ FOIA Request from Chris Saeger to the Office of the Secretary, July 27, 2017, No. OS-2017-00938, attached as Exhibit B; Erica Martinson, Trump administration threatens retribution against Alaska over Murkowski health votes, *Anchorage Daily News*, July 26, 2017, available at <https://www.adn.com/politics/2017/07/26/trump-administration-signals-that-murkowskis-health-care-vote-could-have-energy-repercussions-for-alaska/>.

⁶ Complaint, *Western Values Project v. U.S. Department of the Interior*, No. 1:17cv01779-RDM (D.C. Aug. 31, 2017).

⁷ Letter from Clarice Julka, FOIA Officer in the Office of the Secretary, to Chris Saeger, Apr. 17, 2018, attached as Exhibit C.

⁸ FOIA Request from EarthJustice and Friends of the Earth to the Department of the Interior, Apr. 2, 2018, No. OS-2018-00959. Documents responsive to the request have been released by Earthjustice. See <https://www.documentcloud.org/public/search/projectid:44647-Earthjustice-Interior-Department-emails-reveal>.

⁹ Email from Justin P. Wilkinson to Downey Magallanes, Laura Rigas, et al., Apr. 10, 2018, attached as Exhibit D.

¹⁰ *Id.*

¹¹ Email from Lori Mashburn, Apr. 11, 2018, included with Exhibit E.

¹² Email from Justin Wilkinson to Gabriel Lohr, Lori Mashburn, et al., Apr. 12, 2018, included with Exhibit E.

¹³ Email from Laura Rigas to Justin Wilkinson, Gabriel Lohr, et al., Apr. 12, 2018, attached as Exhibit F.

On June 27, 2018, DOI sent WVP its fifth partial response to the request.¹⁴ Emails between DOI officials indicate the records were designated to be released on June 15, 2018, but the release apparently was delayed due to the Awareness Process. On June 6, 2018, Mr. Wilkinson sent an email to dozens of DOI officials asking for comments on records designated to be released.¹⁵ He wrote, in bolded text, “You have up to 72 hours to review and comment on these records.”¹⁶

The following day, Micah Chambers, a staffer in the Office of Congressional and Legislative Affairs, responded that he “had some questions on the relevance of some of results in the first attachment.”¹⁷ He also submitted some additional comments, but his comments were redacted.¹⁸ Mr. Wilkinson sent an additional email on June 26, 2018, asking DOI officials to clear the records to be released.¹⁹ He appears to have inadvertently revealed the reason for the delayed response, writing “As I understand the current policy, OS FOIA must receive your affirmative clearance prior to release of material related to the Secretary.”²⁰ After a two-week delay, on June 27, 2018, DOI sent WVP the June 2018 monthly production for the FOIA.²¹

Finally, DOI appears to have completely withheld a document after it was circulated through the Awareness Process. On July 9, 2018, Mr. Wilkinson sent several political appointees a document responsive to WVP’s request, titled “00938da (Mashburn attachments incorporated p.2).”²² Mr. Wilkinson wrote in his email that the appointees must respond within 72 hours.²³ Three days later, on July 12, 2018, an attorney within the Office of the Solicitor, Gabe Lohr, sent two of the political appointees a heavily redacted email with the subject line “HOLD - Awareness Review for Active Litigation” about WVP’s request.²⁴ DOI appears to have completely withheld the document in question since WVP never received a document matching the title of the attachment.

FOIA Regarding Communications with Sen. Portman

On May 9, 2017, WVP submitted a FOIA request seeking communications between DOI and the Office of U.S. Senator Rob Portman (R-OH) as well as records reflecting meetings or phone calls with Sen. Portman’s office.²⁵ To date, WVP has not received any records from DOI

¹⁴ Letter from Clarice Julka to Chris Saeger, June 27, 2018, attached as Exhibit G.

¹⁵ Email from Justin Wilkinson to Scott Angelle, Joseph Balash, et al., June 6, 2018, attached as Exhibit H.

¹⁶ *Id.*

¹⁷ Email from Micah Chambers to the FOIA Office, Office of the Secretary, Clarice Julka, and Gabriel Lohr, June 7, 2018, attached as Exhibit I.

¹⁸ *Id.*

¹⁹ Email from Justin Wilkinson to Downey Magallanes, Gabriel Lohr, et al., June 26, 2018, attached as Exhibit J.

²⁰ *Id.*

²¹ Letter from Clarice Julka to Chris Saeger, June 27, 2018, attached as Exhibit G.

²² Email from Justin Wilkinson to Joseph Balash, Caroline Boulton, et al., July 9, 2018, attached as Exhibit K.

²³ *Id.*

²⁴ Email from Gabriel Lohr to Daniel Jorjani, Robert Howarth, et al., July 12, 2018, attached as Exhibit L.

²⁵ FOIA Request from Chris Saeger to the Office of the Secretary, May 9, 2017, No. OS-2017-00544, attached as Exhibit M.

regarding this request. Emails between DOI officials, however, indicate DOI identified responsive documents, but they were withheld as a result of the Awareness Process.

On May 9, 2017, DOI sent WVP an acknowledgement letter notifying WVP that DOI had received the request for communications with Sen. Portman's office.²⁶ More than a year later, on July 25, 2018, Leah Fairman, a DOI FOIA analyst, sent documents responsive WVP's request to several political appointees.²⁷ The documents were designated to be released on July 30, 2018.²⁸ Micah Chambers responded to Ms. Fairman, but his response has been completely redacted.²⁹ Mr. Lohr's responded to that email, and his response also has been largely redacted, but he wrote, in part, "Despite the longstanding use of electronic communications, their status as 'records' for FOIA and Federal Records Act purposes is an evolving field."³⁰ Despite the compilation of the responsive records more than one year ago, WVP has not received any documents regarding this FOIA request.

FOIA for Communications of USGS Officials

On March 16, 2018, WVP submitted a FOIA request to the United States Geological Survey ("USGS") seeking communications sent to or from several senior USGS officials.³¹ On September 26, 2018, DOI released 550 pages of records that had been previously released to another requester, the Investigative Fund. On March 11, 2019, nearly one year after WVP submitted the request, DOI issued its final response. In addition to releasing 198 pages previously provided to the *Los Angeles Times*, DOI also released an additional 88 pages of records directly to WVP.

WVP, however, received a tip that DOI had identified 92 pages of responsive documents. According to the tip, an attorney within the Solicitor's Office at DOI caused four pages to be removed from the documents that were released. WVP is investigating the tip to determine whether this information is accurate.

Additional FOIA Requests

On July 12, 2019, WVP submitted three FOIA requests to DOI seeking additional information concerning these instances of political interference. After DOI failed to provide the records, on July 18, 2019, WVP filed a lawsuit demanding DOI release the requested documents.³² If the follow up requests yield new information regarding political interference at DOI, we will notify the Inspector General.

²⁶ Letter from Clarice Julka to Chris Saeger, May 9, 2017, attached as Exhibit N.

²⁷ Email from Leah Fairman to Micah Chambers, Amanda Kaster, et al., July 25, 2018, attached as Exhibit O.

²⁸ *Id.*

²⁹ Email from Micah Chambers to Leah Fairman, Amanda Kaster, et al., July 25, 2018, attached as Exhibit P.

³⁰ Email from Gabriel Lohr to Micah Chambers, Leah Fairman, Amanda Kaster, et al., July 25, 2018, attached as Exhibit Q.

³¹ FOIA Request from Chris Saeger to USGS, Mar. 16, 2018, No. USGS-2018-00114, attached as Exhibit R.

³² Complaint, Western Values Project v. U.S. Department of the Interior, No. 1:19cv02138-RDM (D.C. July 18, 2019), available at <https://westernvaluesproject.org/wp-content/uploads/2019/07/WVP-v-Interior-Complaint.pdf>.

Legal Analysis

As we noted in our previous letter, DOI is employing the Awareness Review process to violate the FOIA:

[T]he Awareness Process....does not authorize any political appointee to interfere with any FOIA request. The process, as outlined, may narrowly constitute a lawful practice. In practice, however, the implementation of the Awareness Process is violating the FOIA. Because this process is largely hidden from the public, our groups have no way of knowing how many additional documents have been illegally withheld or delayed.

[W]hile the FOIA requires agencies to respond to FOIA requests by making “the records promptly available to any person,”³³ by requiring FOIA responders to consult with political appointees whenever appointees are mentioned in responsive documents, this additional level of review – even when documents are not improperly withheld – results in the release of documents being delayed improperly.³⁴

Conclusion

Contrary to the public statements of Secretary Bernhardt, there is significant evidence demonstrating political interference with the processing of FOIA requests by DOI officials. Therefore, CfA and WVP renew the request that your office investigate to discover the full extent of this interference and report whether DOI is complying with its statutory obligations under the FOIA.

Sincerely,

/s/ Daniel Stevens
Daniel Stevens
Executive Director
Campaign for Accountability

/s/ Kyle Herrig
Kyle Herrig
Sr. Advisor, Western Values Project
Western Values Project

³³ See 5 U.S.C. § 552(a)(3)(A).

³⁴ Campaign for Accountability, Western Values Project, et al., Request for Investigation into Whether the Interior Departments' FOIA Awareness Process is Lawful, June 17, 2019, *available at* <https://campaignforaccountability.org/wp-content/uploads/2019/06/IG-Complaint-Interior-FOIA-Awareness-6-17-19-Exhibits.pdf>.

EXHIBIT A



704C East 13th Street, Suite 568
Whitefish, MT 59937
406-438-1918

Ms. Charis Wilson
FOIA Officer
National Park Service
charis_wilson@nps.gov

June 8, 2018

FOIA REQUEST

Dear Records Request Officer:

Pursuant to the Freedom of Information Act, I request access to and copies of all emails between NPS Congressional Liaison Elaine Hackett and Lolita "Lola" Hand Zinke, since and including January 1, 2017. This should include, but not be limited to, all emails sent by Ms. Hackett to lolazinke@gmail.com, as well as all emails from that gmail address to Ms. Hackett.

"All emails" should include, but not be limited to, all correspondence sent between, carbon copied ("CC") between, or blind carbon copied ("BCC") between Elaine Hackett and Lola Zinke during this time period.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii), Western Values Project requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. § 552(a)(4)(A)(iii).¹

Western Values Project requests a waiver of fees because disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding" of government operations and is not "primarily in the commercial interest of the requester."² The disclosure of the information sought under this request

¹ See, e.g., *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

² 5 U.S.C. § 552(a)(4)(A)(iii)

will document and reveal the operations of the federal government, including how public funds are spent and how officials conduct the public's business.

This request is primarily and fundamentally for non-commercial purposes. As a project of a 501(c)(3) organization, Western Values Project does not have a commercial purpose and the release of the information requested is not in Western Values Project's financial interest. Western Values Project's mission is to give a voice to Western values in the national conversation about resource development and public lands conservation, a space too often dominated by industry lobbyists and their government allies. Western Values Project will use the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. Western Values Project will also make materials it gathers available on our public website <http://www.westernvaluesproject.org/>.

Accordingly, Western Values Project qualifies for a fee waiver.

Conclusion

If possible, I would prefer to receive this information electronically via e-mail at csaeger@westernvaluesproject.org.

If you have questions or need additional information, please feel free to contact Brad Hennessy, my associate who will be handling all follow-up on this request. Brad can be reached at brad@westernvaluesproject.org or at (406) 924-9491.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. If any documents are withheld based on the Agency's interpretation of any exemption, we request that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). Specifically, this *Vaughn* index should describe withheld documents with enough specificity as to determine whether the material is exempt under the act and must describe each document or portion withheld.

Thank you for your assistance.

Sincerely,

Chris Saeger
Executive Director
Western Values Project

EXHIBIT B



704C East 13th Street, Suite 568
Whitefish, MT 59937
406-438-1918

FOIA Officer
Office of the Secretary
U.S. Department of the Interior
E-Mail: osfoia@ios.doi.gov

July 27, 2017

FOIA REQUEST

Dear Records Request Officer:

Factual Background

The Department of the Interior ("DOI") is responsible for managing federally-owned lands, including the use of federally-owned lands for energy resource development. DOI's responsibilities include management of the Arctic National Wildlife Refuge (ANWR) and National Petroleum Reserve – Alaska (NPR-A), two areas of federally-owned land in Alaska with substantial petroleum reserves.

Expanded petroleum drilling in ANWR and NPR-A are key policy priorities for Lisa Murkowski, Alaska's senior senator.¹

On May 25, 2017, *CNN* reported that expanded use of oil and gas leases to drill for petroleum in ANWR was a priority in President Trump's proposed budget.² On May 31, 2017, President Trump's Department of the Interior Secretary, Ryan Zinke ("Zinke"), signed orders that could allow for expanded petroleum drilling in ANWR and NPR-A.³

¹ Jennifer A. Dlouhy and Catherine Trawick, "Opening Arctic for Drilling is Trump Priority, Key Senator Says," *Bloomberg* (Mar. 10, 2017), *available at* <https://www.bloomberg.com/news/articles/2017-03-10/opening-arctic-for-drilling-is-trump-priority-key-senator-says>.

² Matt Egan, "Trump wants to drill for oil in Alaska's fragile wildlife refuge," *CNN MONEY* (May 25, 2017), *available at* <http://money.cnn.com/2017/05/25/investing/alaska-arctic-oil-drilling-trump-anwr/index.html>.

³ Dan Joling, "Interior Secretary Zinke orders petroleum reviews in Alaska," *Fox BUSINESS* (May 31, 2017), *available at* <http://www.foxbusiness.com/markets/2017/05/31/interior-secretary-zinke-orders-petroleum-reviews-in-alaska.html>.

DOI's responsibilities also include management of the Izembek National Wildlife Refuge ("Izembek"), a wildlife refuge protected by the United States Fish and Wildlife Service, an agency within DOI.

Zinke's predecessor, former Secretary Sally Jewell, rejected prior plans to build a road to reach King Cove because of concerns about damage to Izembek from the construction of such a road. Sen. Murkowski was a critic of Jewell's decision concerning the King Cove road, and continued petitioning Zinke to approve the construction of the road after he was appointed Secretary of DOI. On April 13, 2017, the *Washington Times* reported that DOI was planning to take a "fresh look" at plans to build a road through Izembek to reach the King Cove community.⁴

On July 25, 2017, Sen. Murkowski voted "no" on a motion to proceed to H.R. 1628, the American Health Care Act.⁵ Despite Sen. Murkowski's objection, the motion to proceed was narrowly successful after Vice President Mike Pence voted to break a tie in the Senate. Early the next morning, President Trump attacked Sen. Murkowski on Twitter for voting against the motion, tweeting, "Senator @lisamurkowski of the Great State of Alaska really let the Republicans, and our country, down yesterday. Too bad!"⁶

The Alaska Dispatch News reported on July 26, 2017⁷ of disturbing calls from Secretary Zinke to Senators Murkowski and Sullivan in which Secretary Zinke is reported to have signaled that Senator Murkowski's recent vote against the President on the motion to proceed to debate on a health care bill will have negative consequences for issues important to the state of Alaska. Per the *Alaska Dispatch News*, these efforts and issues include "nominations of Alaskans to Interior posts, an effort to build a road out of King Cove through the Izembek National Wildlife Refuge, and future opportunities to drill in the Arctic National Wildlife Refuge and expand drilling in the National Petroleum Reserve-Alaska, among other regulatory issues that are a priority for Murkowski and Sullivan." As such, there is substantial public interest in understanding the nature of Secretary Zinke and DOI's actions in regards to this matter.

Request

Pursuant to the Freedom of Information Act, I request access to and copies of:

⁴ Ben Wolfgang, "Interior Department will take a new look at Alaska's King Cove road project shelved under Obama," WASHINGTON TIMES (Apr. 13, 2017), *available at* <http://www.washingtontimes.com/news/2017/apr/13/sally-jewell-revives-alaskas-king-cove-road-projec/>.

⁵ *Murkowski Statement on Motion to Proceed Vote*

<https://www.murkowski.senate.gov/press/release/murkowski-statement-on-motion-to-proceed-vote>.

⁶ <https://twitter.com/realDonaldTrump/status/890168183079960576>

⁷ Erica Martinson, "Trump administration threatens retribution against Alaska over Murkowski health votes," *Alaska Daily News*, 07/26/17.

- All records related to calls between Secretary Zinke and Senators Murkowski and Sullivan between July 24 and July 26, 2017.
- All records related to calls between Secretary Zinke and Senators Collins, Heller, Lee, and McCain since July 1, 2017.
- All correspondence sent or received by any individual listed on Appendix A since and including July 1, 2017, which contains any of the following key words: Collins, Murkowski, Sullivan, Heller, Alaska, Maine, Nevada, healthcare, health care.

Please be advised for the purposes of searching correspondence, the Office of Secretary of Interior has indicated to NARA that its email is “fully retrievable for requests” in its Federal Email Management Report for 2017.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii), Western Values Project requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. § 552(a)(4)(A)(iii).⁸

Western Values Project requests a waiver of fees because disclosure of the requested information is “in the public interest because it is likely to contribute significantly to public understanding” of government operations and is not “primarily in the commercial interest of the requester.”⁹ The disclosure of the information sought under this request will document and reveal the operations of the federal government, including how public funds are spent and how officials conduct the public’s business.

This request is primarily and fundamentally for non-commercial purposes. As a project of a 501(c)(3) organization, Western Values Project does not have a commercial purpose and the release of the information requested is not in Western Values Project’s financial interest. Western Values Project’s mission is to give a voice to Western values in the national conversation about resource development and public lands conservation, a space too often dominated by industry lobbyists and their government allies. Western Values Project will use the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. Western Values Project will also make materials it gathers available on our public website <http://www.westernvaluesproject.org/>.

Accordingly, Western Values Project qualifies for a fee waiver.

⁸ See, e.g., *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

⁹ 5 U.S.C. § 552(a)(4)(A)(iii)

Conclusion

If possible, I would prefer to receive this information electronically via e-mail at csaeger@westernvaluesproject.org.

If you have questions or need additional information from me, please feel free to call me at (406) 438-1918.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. If any documents are withheld based on the Agency's interpretation of any exemption, we request that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). Specifically, this *Vaughn* index should describe withheld documents with enough specificity as to determine whether the material is exempt under the act and must describe each document or portion withheld.

Thank you for your assistance.

Sincerely,

Chris Saeger
Executive Director
Western Values Project

Appendix A

Secretary Ryan Zinke
Deputy Secretary David Bernhardt
Scott Hommel
Downey Magallanes
Lori Mashburn
Caroline Boulton
Micah Chambers
Doug Domenech
Vincent DeVito
Kathy Benedetto
Katherine MacGregor
Nancy Guiden

EXHIBIT C



United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

IN REPLY REFER TO:
7202.4-OS-2017-00938

April 17, 2018

Via email: csaeger@westernvaluesproject.org

Chris Saeger
704C East 13th Street, Suite 568
Whitefish, MT 59937

Dear Mr. Saeger:

On July 27, 2018, you filed a Freedom of Information Act (FOIA) request seeking the following:

- All records related to calls between Secretary Zinke and Senators Murkowski and Sullivan between July 24 and July 26, 2017.
- All records related to calls between Secretary Zinke and Senators Collins, Heller, Lee, and McCain since July 1, 2017.
- All correspondence sent or received by any individual listed on Appendix A since and including July 1, 2017, which contains any of the following key words: "Collins", "Murkowski", "Sullivan", "Heller", "Alaska", "Maine", "Nevada", "healthcare", "healthcare."

Your request was received in the Office of the Secretary FOIA office on July 27, 2018, and assigned control number **OS-2017-00938**. Please cite this number in any future correspondence or communications with the Office of the Secretary regarding your request. On December 4, 2017, we provided the first partial response. On March 8, 2018, we provided the second partial response. We are writing today to provide the third partial response to your request. To date, we have completed the review of approximately 1,793 pages of potentially responsive records, an increase of 469 pages since our last release. We have electronically enclosed one file containing 469 pages of records. Of the 469 pages, 439 pages are being released in full and 30 pages contain redactions as described below.

Portions of the enclosed documents have been redacted pursuant to Exemption 5 of the FOIA (5 U.S.C. § 552 (b)(5)) under the following privileges:

Deliberative Process

Exemption 5 allows an agency to withhold "inter-agency or intra-agency memorandums or letters which would not be available by law to a party... in litigation with the agency." 5 U.S.C. § 552(b)(5). As such, the Exemption 5 "exempt[s] those documents... normally privileged in the civil discovery context." National Labor Relations Bd. v. Sears, Roebuck & Co., 421 U.S. 132, 149 (1975). The exemption incorporates the privileges that protect materials from discovery in

litigation. These privileges include deliberative process, confidential commercial information, attorney work-product, and attorney-client. See *id.*; see also Federal Open Market Committee v. Merrill, 443 U.S. 340, 363 (1979) (finding a confidential commercial information privilege under Exemption 5).

Deliberative Process Privilege

The deliberative process privilege “protects the decisionmaking process of government agencies” and “encourages the frank discussion of legal and policy issues” by ensuring that agencies are “not forced to operate in a fishbowl.” Mapother v. United States Dep’t of Justice, 3 F.3d 1533, 1537 (D.C. Cir. 1993) (citing Wolfe v. United States Dep’t of Health & Human Services, 839 F.2d 768, 773 (D.C. Cir. 1988)). Three policy purposes have been advanced by the courts as the bases for this privilege: (1) to encourage open, frank discussions on matters of policy between subordinates and superiors; (2) to protect against premature disclosure of proposed policies before they are finally adopted; and (3) to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency’s action. See Coastal States Gas Corp. v. United States Dep’t of Energy, 617 F.2d 854, 866 (D.C. Cir. 1980).

The deliberative process privilege protects materials that are both predecisional and deliberative. Mapother, 3 F.3d at 1537; Access Reports v. United States Dep’t of Justice, 926 F.2d 1192, 1195 (D.C. Cir. 1991); Vaughn v. Rosen, 523 F.2d 1136, 1143-44 (D.C. Cir. 1975). A “predecisional” document is one “prepared in order to assist an agency decisionmaker in arriving at his decision,” and may include “recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency.” Maricopa Audubon Society v. United States Forest Service, 108 F.3d 1089, 1093 (9th Cir. 1997). A predecisional document is part of the “deliberative process” if “the disclosure of [the] materials would expose an agency’s decisionmaking process in such a way as to discourage candid discussion within the agency and thereby undermine the agency’s ability to perform its functions.” Dudman Communications Corp. v. Department of the Air Force, 815 F.2d 1565, 1568 (D.C. Cir. 1987).

Those portions of the documents that have been withheld pursuant to the deliberative process privilege of Exemption 5 are both predecisional and deliberative. They do not contain or represent formal or informal agency policies or decisions. They are the result of frank and open discussions among employees of the Department of the Interior. Therefore, their content has been held confidential by all parties. Public dissemination of this information would have a chilling effect on the agency’s deliberative processes; it would expose the agency’s decision-making process in such a way as to discourage candid discussion within the agency and thereby undermine its ability to perform its mandated functions.

Mr. Chris Saeger

Portions of the enclosed documents have been redacted pursuant to Exemption 6 of the FOIA (5 U.S.C. § 552(b)(6)) because they fit certain categories of information:

Personal Email Addresses
Personal Cell Phone Numbers
Personal Street Addresses
Personally Identifiable Information

Exemption 6 allows an agency to withhold “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” The courts have held that the phrase “similar files” involves all information that applies to a particular person. Hertzberg v. Veneman, 273 F. Supp. 2d 67, 85 n.11 (D.D.C. 2003).

To determine whether releasing requested information would constitute a clearly unwarranted invasion of personal privacy, we are required to perform a “balancing test.” This means that we must weigh the individual’s right to privacy against the public’s right to disclosure.

- (1) First, we must determine whether the individual has a discernable privacy interest in the information that has been requested.
- (2) Next, we must determine whether release of this information would serve “the public interest generally” (i.e., would “shed light on the performance of the agency's statutory duties”).
- (3) Finally, we must determine whether the public interest in disclosure is greater than the privacy interest of the individual in withholding.

The information that we are withholding consists of personal email addresses, cellphone numbers, street addresses, and other personally identifiable information, and we have determined that the individuals to whom this information pertains have a substantial privacy interest in it. Additionally, we have determined that the disclosure of this information would shed little or no light on the performance of the agency’s statutory duties and that, on balance, the public interest to be served by its disclosure does not outweigh the privacy interest of the individuals in question, in withholding it. Nat’l Ass’n of Retired Fed. Employees v. Horner, 879 F.2d 873, 879 (D.C. Cir. 1989).

In summation, we have determined that release of the information that we have withheld would constitute a clearly unwarranted invasion of the privacy of these individuals, and that it therefore may be withheld, pursuant to Exemption 6.

We reasonably foresee that disclosure would harm an interest protected by one or more of the nine exemptions to the FOIA’s general rule of disclosure.

Gabriel Lohr, Attorney-Advisor, in the Office of the Solicitor, was consulted in reaching this decision. Clarice Julka, Office of the Secretary FOIA Officer, is responsible for making this decision.

Mr. Chris Saeger

Appeals

You may appeal this decision to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal **no later than 90 workdays** from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 PM Eastern Time, Monday through Friday, will be deemed received on the next workday. **Your appeal must be made in writing** and addressed to:

Attn: FOIA/Privacy Act Appeals Officer
U.S. Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS6556 MIB
Washington, D.C. 20240
Fax: 202-208-6677
E-mail: FOIA.Appeals@sol.doi.gov

You must include with your appeal copies of all correspondence between you and the Office of the Secretary concerning your FOIA request, including a copy of your original FOIA request and the response letter. You must also include, in as much detail as possible, an explanation of why you believe the Office of the Secretary's response was in error. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Officer determines (in her sole discretion) that good cause exists to accept the defective appeal. All communications concerning your appeal, including envelopes, should be clearly marked with the words "FREEDOM OF INFORMATION APPEAL." The appeal should include your name, mailing address, daytime telephone number (or the name and telephone number of an appropriate contact), email address, and fax number (if available) in case the Department needs additional information or clarification. For more information on FOIA administrative appeals, including how the Department will respond to your appeal, please refer to Subpart H of the Department's FOIA regulations, 43 C.F.R. § 2.57-§ 2.64.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c). This response is limited to records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974.

Mr. Chris Saeger

You may contact OGIS in any of the following ways:

The National Archives and Records Administration
Office of Government Information Services
8601 Adelphi Road- OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

If you have any questions about our response to your request, you may contact Justin Wilkinson by phone at 202-513-0765, by fax at 202-219-2374, by email at os_foia@ios.doi.gov, or by mail at U.S. Department of the Interior, 1849 C Street, NW, MS-7328, Washington, D.C. 20240. You also may seek dispute resolution services from our FOIA Public Liaison, Clarice Julka, at the phone and address above.

Sincerely,

Clarice Julka
Office of the Secretary
FOIA Officer

EXHIBIT D

To: Downey Magallanes[downey_magallanes@ios.doi.gov]; Laura Rigas[laura_rigas@ios.doi.gov]; Daniel Jorjani[daniel.jorjani@sol.doi.gov]; Lori Mashburn[lori_mashburn@ios.doi.gov]
Cc: Gabriel Lohr[gabriel.lohr@sol.doi.gov]
From: Wilkinson, Justin
Sent: 2018-04-10T13:53:36-04:00
Importance: Normal
Subject: LITIGATION RECORDS (17-cv-01779 (WVP v. DOI)) - Augmented Awareness Review
Received: 2018-04-10T13:54:33-04:00
00938cn Returned from Gen Law - Mashburn no attachments Part 3 TF.pdf

Good afternoon,

For your review, please find the attached 487 pages of responsive material that are involved in the above-captioned litigation. Lori Mashburn is the records custodian of this material.

Please provide confirmation that you have received and reviewed these records. They are scheduled to be produced this Friday, April 13, 2018. We will be unable to meet that deadline unless we have received a confirmation from each recipient of this message.

Please feel free to contact me with any questions.

Thanks,
Justin

EXHIBIT E

To: Lohr, Gabriel[gabriel.lohr@sol.doi.gov]
Cc: Mashburn, Lori[lori_mashburn@ios.doi.gov]; Downey Magallanes[downey_magallanes@ios.doi.gov]; Laura Rigas[laura_rigas@ios.doi.gov]; Daniel Jorjani[daniel.jorjani@sol.doi.gov]
From: Wilkinson, Justin
Sent: 2018-04-12T13:54:46-04:00
Importance: Normal
Subject: Re: LITIGATION RECORDS (17-cv-01779 (WVP v. DOI)) - Augmented Awareness Review
Received: 2018-04-12T13:55:12-04:00

Lori,

I very much appreciate your comments and time. I concur with all of your comments and have applied them to the records. (b) (5)

Can you confirm that this completes your review?

Downey, Laura, and Dan,

Should OS FOIA expect comments from each of you or will Lori's review confirmation be sufficient to move this request out of the Augmented Awareness Review phase?

Thanks,
Justin

On Thu, Apr 12, 2018 at 9:01 AM, Lohr, Gabriel <gabriel.lohr@sol.doi.gov> wrote:

Lori,

Thanks you for your comments.

Justin,

Please touch base with me this morning so we can address Lori's concerns together and provide a single response to her questions.

If there are any other concerns or questions, please call or email.

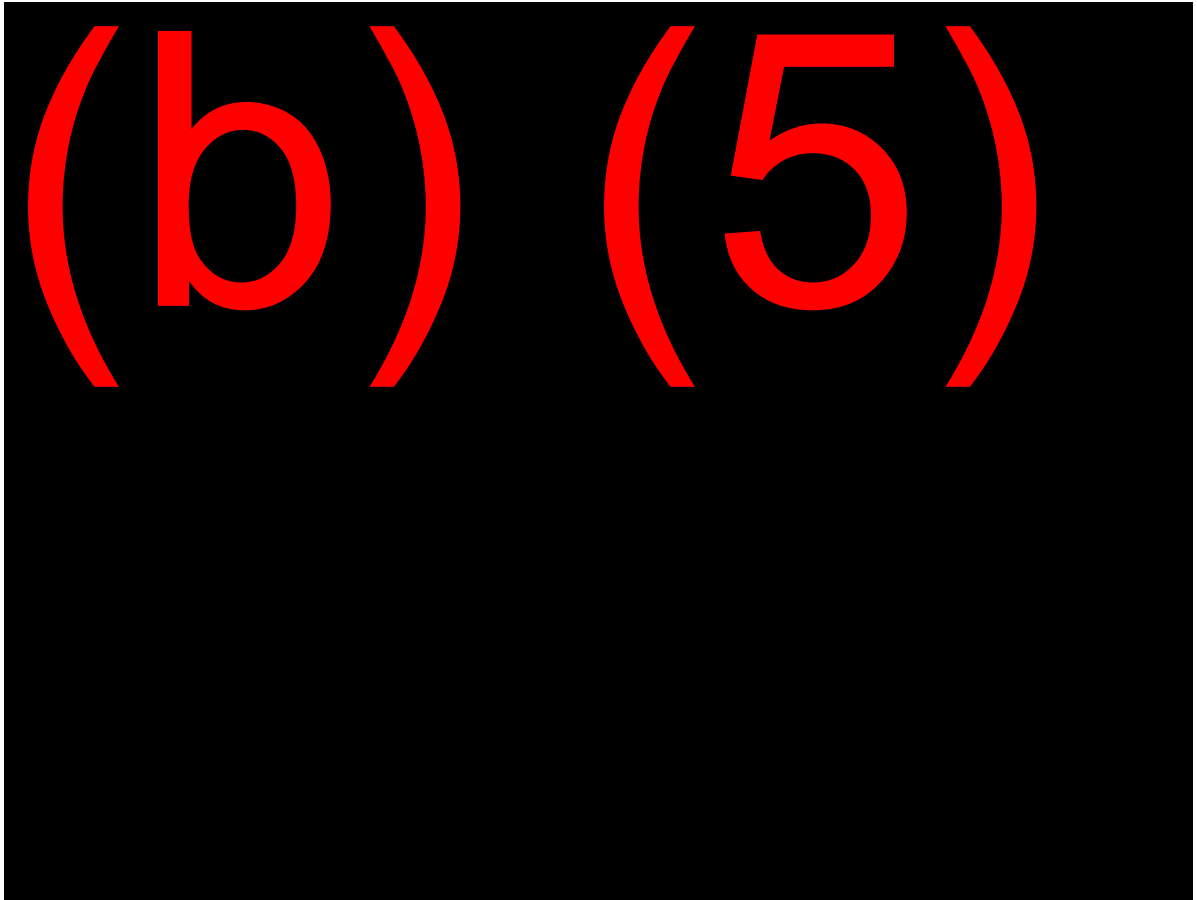
Thanks,

Gabe

Gabriel D. Lohr
Attorney-Advisor, Branch of General Legal Services
Division of General Law, Office of the Solicitor
U.S. Department of the Interior
(202) 513-0512
(202) 208-6475 (Fax)

On Wed, Apr 11, 2018 at 7:03 PM, Mashburn, Lori <lori_mashburn@ios.doi.gov> wrote:

Thank you Justin for providing an opportunity to review. I have a few questions/concerns about some of the documents included. Please see below.



I would be happy to chat with you about these tomorrow.

Thanks,
Lori

Lori K. Mashburn
White House Liaison & Senior Advisor to the Secretary
Department of the Interior
202.208.1694

On Tue, Apr 10, 2018 at 1:53 PM, Wilkinson, Justin <justin_wilkinson@ios.doi.gov> wrote:

Good afternoon,
For your review, please find the attached 487 pages of responsive material that are involved in the above-captioned litigation. Lori Mashburn is the records custodian of this material.

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Please feel free to contact me with any questions.

Thanks,
Justin

--

Justin P. Wilkinson
Department of the Interior
Office of the Secretary, FOIA Office
1849 C Street, NW, MS 7328
Washington, D.C. 20240
Justin_Wilkinson@ios.doi.gov
(202) 513 0765 phone
(202) 565 1109 direct line
(202) 219 2374 fax

EXHIBIT F

To: Wilkinson, Justin[justin_wilkinson@ios.doi.gov]
Cc: Lohr, Gabriel[gabriel.lohr@sol.doi.gov]; Mashburn, Lori[lori_mashburn@ios.doi.gov]; Downey Magallanes[downey_magallanes@ios.doi.gov]; Daniel Jorjani[daniel.jorjani@sol.doi.gov]
From: Rigas, Laura
Sent: 2018-04-12T14:15:22-04:00
Importance: Normal
Subject: Re: LITIGATION RECORDS (17-cv-01779 (WVP v. DOI)) - Augmented Awareness Review
Received: 2018-04-12T14:15:30-04:00

Hi -- may I please see the new updated package to review? Thanks!

Laura Keehner Rigas
Communications Director
U.S. Department of the Interior
(202) 897 7022 cell
@Interior

On Thu, Apr 12, 2018 at 1:54 PM, Wilkinson, Justin <justin_wilkinson@ios.doi.gov> wrote:

Lori,
I very much appreciate your comments and time. I concur with all of your comments and have applied them to the records. (b) (5)

Can you confirm that this completes your review?

Downey, Laura, and Dan,

Should OS FOIA expect comments from each of you or will Lori's review confirmation be sufficient to move this request out of the Augmented Awareness Review phase?

Thanks,
Justin

On Thu, Apr 12, 2018 at 9:01 AM, Lohr, Gabriel <gabriel.lohr@sol.doi.gov> wrote:

Lori,

Thanks you for your comments.

Justin,

Please touch base with me this morning so we can address Lori's concerns together and provide a single response to her questions.

If there are any other concerns or questions, please call or email.

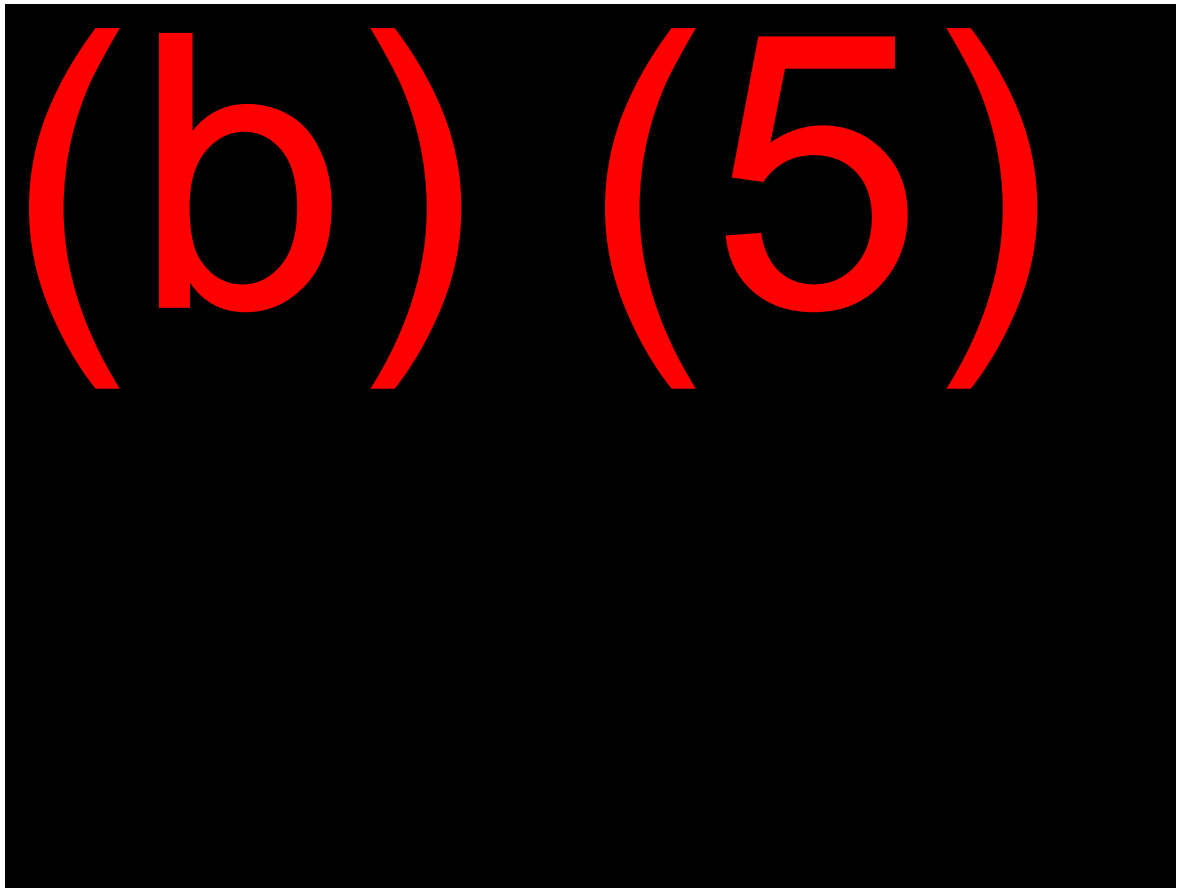
Thanks,

Gabe

Gabriel D. Lohr
Attorney-Advisor, Branch of General Legal Services
Division of General Law, Office of the Solicitor
U.S. Department of the Interior
(202) 513-0512
(202) 208-6475 (Fax)

On Wed, Apr 11, 2018 at 7:03 PM, Mashburn, Lori <lori_mashburn@ios.doi.gov> wrote:

Thank you Justin for providing an opportunity to review. I have a few questions/concerns about some of the documents included. Please see below.



I would be happy to chat with you about these tomorrow.

Thanks,
Lori

Lori K. Mashburn
White House Liaison & Senior Advisor to the Secretary
Department of the Interior
202.208.1694

On Tue, Apr 10, 2018 at 1:53 PM, Wilkinson, Justin <justin_wilkinson@ios.doi.gov> wrote:

Good afternoon,
For your review, please find the attached 487 pages of responsive material that are involved in the above-captioned litigation. Lori Mashburn is the records custodian of this material.

Please provide confirmation that you have received and reviewed these records. They are scheduled to be produced this Friday, April 13, 2018. We will be unable to meet that deadline unless we have received a confirmation from each recipient of this message.

Please feel free to contact me with any questions.

Thanks,
Justin

--

Justin P. Wilkinson
Department of the Interior
Office of the Secretary, FOIA Office
1849 C Street, NW, MS 7328
Washington, D.C. 20240
Justin_Wilkinson@ios.doi.gov
(202) 513 0765 phone
(202) 565 1109 direct line
(202) 219 2374 fax

EXHIBIT G



United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

IN REPLY REFER TO:
7202.4-OS-2017-00938/1:17-cv-01779-RDM

June 27, 2018

Via email: csaeger@westernvaluesproject.org

Chris Saeger
704C East 13th Street, Suite 568
Whitefish, MT 59937

Dear Mr. Saeger:

On July 27, 2018, you filed a Freedom of Information Act (FOIA) request seeking the following:

- All records related to calls between Secretary Zinke and Senators Murkowski and Sullivan between July 24 and July 26, 2017.
- All records related to calls between Secretary Zinke and Senators Collins, Heller, Lee, and McCain since July 1, 2017.
- All correspondence sent or received by any individual listed on Appendix A since and including July 1, 2017, which contains any of the following key words: "Collins", "Murkowski", "Sullivan", "Heller", "Alaska", "Maine", "Nevada", "healthcare", "health care."

Your request was received in the Office of the Secretary FOIA office on July 27, 2018, and assigned control number **OS-2017-00938**. Please cite this number in any future correspondence or communications with the Office of the Secretary regarding your request. On December 4, 2017, we provided the first partial response. On March 9, 2018, we provided the second partial response. On April 17, 2018, we provided a third partial response. On May 8, 2018, we provided the fourth partial response. We are writing today to provide the fifth partial response to your request. To date, we have completed the review of approximately 7,560 pages of potentially responsive records, an increase of 668 pages since our last release. We have electronically enclosed two files containing 668 pages of records. Of the 668 pages, 587 pages are being released in full and 81 pages contain redactions as described below.

Portions of the enclosed documents have been redacted pursuant to Exemption 5 of the FOIA (5 U.S.C. § 552 (b)(5)) under the following privileges:

Deliberative Process

Exemption 5 allows an agency to withhold "inter-agency or intra-agency memorandums or letters which would not be available by law to a party... in litigation with the agency." 5 U.S.C. § 552(b)(5). As such, the Exemption 5 "exempt[s] those documents... normally privileged in the

civil discovery context.” National Labor Relations Bd. v. Sears, Roebuck & Co., 421 U.S. 132, 149 (1975). The exemption incorporates the privileges that protect materials from discovery in litigation. These privileges include deliberative process, confidential commercial information, attorney work-product, and attorney-client. See *id.*; see also Federal Open Market Committee v. Merrill, 443 U.S. 340, 363 (1979) (finding a confidential commercial information privilege under Exemption 5).

Deliberative Process Privilege

The deliberative process privilege “protects the decisionmaking process of government agencies” and “encourages the frank discussion of legal and policy issues” by ensuring that agencies are “not forced to operate in a fishbowl.” Mapother v. United States Dep’t of Justice, 3 F.3d 1533, 1537 (D.C. Cir. 1993) (citing Wolfe v. United States Dep’t of Health & Human Services, 839 F.2d 768, 773 (D.C. Cir. 1988)). Three policy purposes have been advanced by the courts as the bases for this privilege: (1) to encourage open, frank discussions on matters of policy between subordinates and superiors; (2) to protect against premature disclosure of proposed policies before they are finally adopted; and (3) to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency’s action. See Coastal States Gas Corp. v. United States Dep’t of Energy, 617 F.2d 854, 866 (D.C. Cir. 1980).

The deliberative process privilege protects materials that are both predecisional and deliberative. Mapother, 3 F.3d at 1537; Access Reports v. United States Dep’t of Justice, 926 F.2d 1192, 1195 (D.C. Cir. 1991); Vaughn v. Rosen, 523 F.2d 1136, 1143-44 (D.C. Cir. 1975). A “predecisional” document is one “prepared in order to assist an agency decisionmaker in arriving at his decision,” and may include “recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency.” Maricopa Audubon Society v. United States Forest Service, 108 F.3d 1089, 1093 (9th Cir. 1997). A predecisional document is part of the “deliberative process” if “the disclosure of [the] materials would expose an agency’s decisionmaking process in such a way as to discourage candid discussion within the agency and thereby undermine the agency’s ability to perform its functions.” Dudman Communications Corp. v. Department of the Air Force, 815 F.2d 1565, 1568 (D.C. Cir. 1987).

Mr. Chris Saeger

Those portions of the documents that have been withheld pursuant to the deliberative process privilege of Exemption 5 are both predecisional and deliberative. They do not contain or represent formal or informal agency policies or decisions. They are the result of frank and open discussions among employees of the Department of the Interior. Therefore, their content has been held confidential by all parties. Public dissemination of this information would have a chilling effect on the agency's deliberative processes; it would expose the agency's decision-making process in such a way as to discourage candid discussion within the agency and thereby undermine its ability to perform its mandated functions.

Portions of the enclosed documents have been redacted pursuant to Exemption 6 of the FOIA (5 U.S.C. § 552(b)(6)) because they fit certain categories of information:

Personal Email Addresses
Personal Cell Phone Numbers
Personal Street Addresses
Personally Identifiable Information

Exemption 6 allows an agency to withhold "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The courts have held that the phrase "similar files" involves all information that applies to a particular person. Hertzberg v. Veneman, 273 F. Supp. 2d 67, 85 n.11 (D.D.C. 2003).

To determine whether releasing requested information would constitute a clearly unwarranted invasion of personal privacy, we are required to perform a "balancing test." This means that we must weigh the individual's right to privacy against the public's right to disclosure.

- (1) First, we must determine whether the individual has a discernable privacy interest in the information that has been requested.
- (2) Next, we must determine whether release of this information would serve "the public interest generally" (i.e., would "shed light on the performance of the agency's statutory duties").
- (3) Finally, we must determine whether the public interest in disclosure is greater than the privacy interest of the individual in withholding.

The information that we are withholding consists of personal email addresses, cellphone numbers, street addresses, and other personally identifiable information, and we have determined that the individuals to whom this information pertains have a substantial privacy interest in it. Additionally, we have determined that the disclosure of this information would shed little or no light on the performance of the agency's statutory duties and that, on balance, the public interest to be served by its disclosure does not outweigh the privacy interest of the individuals in question, in withholding it. Nat'l Ass'n of Retired Fed. Employees v. Horner, 879 F.2d 873, 879 (D.C. Cir. 1989).

Mr. Chris Saeger

In summation, we have determined that release of the information that we have withheld would constitute a clearly unwarranted invasion of the privacy of these individuals, and that it therefore may be withheld, pursuant to Exemption 6.

We reasonably foresee that disclosure would harm an interest protected by one or more of the nine exemptions to the FOIA's general rule of disclosure.

Gabriel Lohr, Attorney-Advisor, in the Office of the Solicitor, was consulted in reaching this decision. Clarice Julka, Office of the Secretary FOIA Officer, is responsible for making this decision.

Appeals

You may appeal this decision to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal **no later than 90 workdays** from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 PM Eastern Time, Monday through Friday, will be deemed received on the next workday. **Your appeal must be made in writing** and addressed to:

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Mr. Chris Saeger

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c). This response is limited to records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

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The National Archives and Records Administration
Office of Government Information Services
8601 Adelphi Road- OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

If you have any questions about our response to your request, you may contact Justin Wilkinson by phone at 202-513-0765, by fax at 202-219-2374, by email at os_foia@ios.doi.gov, or by mail at U.S. Department of the Interior, 1849 C Street, NW, MS-7328, Washington, D.C. 20240. You also may seek dispute resolution services from our FOIA Public Liaison, Clarice Julka, at the phone and address above.

Sincerely,

Clarice Julka
Office of the Secretary
FOIA Officer

EXHIBIT H

To: Scott Angelle[scott.angelle@bsee.gov]; Joseph Balash[joseph_balash@ios.doi.gov]; Thomas Baptiste[tbaptiste@blm.gov]; Kathleen Benedetto[kathleen_benedetto@ios.doi.gov]; John Bockmier[john_bockmier@ios.doi.gov]; Caroline Boulton[caroline_boulton@ios.doi.gov]; Brenda Burman[bburman@usbr.gov]; Scott Cameron[scott_cameron@ios.doi.gov]; James Cason[james_cason@ios.doi.gov]; Benjamin Cassidy[benjamin_cassidy@ios.doi.gov]; Micah Chambers[micah_chambers@ios.doi.gov]; Gavin Clarkson[gavin.clarkson@bia.gov]; Susan Combs[susan_combs@ios.doi.gov]; Critchfield, Marshall[marshall_critchfield@ios.doi.gov]; Natalie Davis[natalie_davis@ios.doi.gov]; Vincent Devito[vincent_devito@ios.doi.gov]; Doug Domenech[doug_domenech@ios.doi.gov]; Douglas Domenech[douglas_domenech@ios.doi.gov]; Jason Funes[jason_funes@ios.doi.gov]; Zachariah Gambill[zachariah_gambill@fws.gov]; Leila Getto[leila_getto@ios.doi.gov]; Casey Hammond[casey_hammond@ios.doi.gov]; Alex Hinson[alex_hinson@ios.doi.gov]; Scott Hommel[scott_hommel@ios.doi.gov]; Virginia Johnson[virginia_johnson@ios.doi.gov]; Daniel Jorjani[daniel.jorjani@sol.doi.gov]; Amanda Kaster[amanda_kaster@ios.doi.gov]; Katharine MacGregor[katharine_macgregor@ios.doi.gov]; Downey Magallanes[downey_magallanes@ios.doi.gov]; Lori Mashburn[lori_mashburn@ios.doi.gov]; David Mihalic[david_mihalic@ios.doi.gov]; Alan Mikkelsen[alan_mikkelsen@ios.doi.gov]; Eli Nachmany[eli_nachmany@ios.doi.gov]; Russell Newell[russell_newell@ios.doi.gov]; Timothy Petty[timothy_petty@ios.doi.gov]; James Schindler[james.schindler@boem.gov]; Greg Sheehan[greg_j_sheehan@fws.gov]; Aurelia Skipwith[aurelia_skipwith@ios.doi.gov]; Steven Smith[steven_smith@ios.doi.gov]; Swift, Heather[heather_swift@ios.doi.gov]; John Tahsuda[john.tahsuda@bia.gov]; Aaron Thiele[aaron_thiele@ios.doi.gov]; Vander Voort, Faith[faith_vandervoort@ios.doi.gov]; James Voyles[james_voyles@ios.doi.gov]; Stephen Wackowski[steve_wackowski@ios.doi.gov]; Wackowski, Stephen[stephen_wackowski@ios.doi.gov]; Todd Willens[todd_willens@ios.doi.gov]; Timothy Williams[timothy_williams@ios.doi.gov]; wadi_yakhour@ios.doi.gov[wadi_yakhour@ios.doi.gov]; Gareth Rees[gareth_rees@ios.doi.gov]
Cc: Gabriel Lohr[gabriel.lohr@sol.doi.gov]; Clarice Julka[clarice_julka@ios.doi.gov]
From: justin_wilkinson@ios.doi.gov
Sent: 2018-06-06T12:32:48-04:00
Importance: Normal
Subject: Awareness Review for Active Litigation - 1:17-cv-01779-RDM/OS-2017-00938
Received: 2018-06-06T12:34:19-04:00
[00938cu Post Gen Law \(Swift ERDMS part one\).pdf](#)
[00938cz Post Gen Law Mashburn no attachments Part 5.pdf](#)

All,

Pursuant to the [Awareness Process for FOIA Productions](#) memorandum, dated May 24, 2018, I am seeking comments from all PAS, NCSE, or Schedule C employees whose names appear in the attached records.

If you are receiving this message, then your name appears in one or both of the attached files. In accordance with the aforementioned memorandum, **you have up to 72 hours to review and comment on these records.** If no comment is received, then the Department will assume you have none.

Assistants for Secretary Zinke and Deputy Secretary Bernhardt should note that these records may concern both the assistants and principles. They should be reviewed as such.

Thank you for your attention to this matter.

Justin

--

Department of the Interior

Office of the Secretary, FOIA Office
1849 C Street, NW, MS 7328
Washington, D.C. 20240
os_foia@ios.doi.gov
(202) 513 0765 phone
(202) 219 2374 fax

EXHIBIT I

To: OS, OS FOIA[osfoia@ios.doi.gov]
Cc: Clarice Julka[clarice_julka@ios.doi.gov]; Gabriel Lohr[gabriel.lohr@sol.doi.gov]
From: Chambers, Micah
Sent: 2018-06-07T17:23:59-04:00
Importance: Normal
Subject: Re: Awareness Review for Active Litigation - 1:17-cv-01779-RDM/OS-2017-00938
Received: 2018-06-07T17:24:46-04:00

Thank you for sending the original request. I am fine with my portion on the 2nd attachment. I had some questions on the relevance of some of results in the first attachment though.

(b) (5)

Thanks

On Wed, Jun 6, 2018 at 12:32 PM, OS, OS FOIA <osfoia@ios.doi.gov> wrote:

All,

Pursuant to the Awareness Process for FOIA Productions memorandum, dated May 24, 2018, I am seeking comments from all PAS, NCSE, or Schedule C employees whose names appear in the attached records.

If you are receiving this message, then your name appears in one or both of the attached files. In accordance with the aforementioned memorandum, **you have up to 72 hours to review and comment on these records.** If no comment is received, then the Department will assume you have none.

Assistants for Secretary Zinke and Deputy Secretary Bernhardt should note that these records may concern both the assistants and principles. They should be reviewed as such.

Thank you for your attention to this matter.

Justin

--

Department of the Interior
Office of the Secretary, FOIA Office
1849 C Street, NW, MS 7328
Washington, D.C. 20240
os_foia@ios.doi.gov
(202) 513 0765 phone
(202) 219 2374 fax

--

Micah Chambers
Deputy Director
Office of Congressional & Legislative Affairs

Office of the Secretary of the Interior

EXHIBIT J

To: Downey Magallanes[downey_magallanes@ios.doi.gov]
Cc: Gabriel Lohr[gabriel.lohr@sol.doi.gov]; Leisa Schwab[leisa.schwab@sol.doi.gov]; Rachel Spector[rachel.spector@sol.doi.gov]; Clarice Julka[clarice_julka@ios.doi.gov]
From: justin_wilkinson@ios.doi.gov
Sent: 2018-06-26T10:34:23-04:00
Importance: Normal
Subject: Re: Awareness Review for Active Litigation - 1:17-cv-01779-RDM/OS-2017-00938
Received: 2018-06-26T10:35:47-04:00
[00938cu \(Swift ERDMS part one\).pdf](#)
[00938cz Mashburn no attachments Part 5.pdf](#)
[17-00938qa.pdf](#)

Good morning,

I am following up on this litigation production that was set to go out on June 15, 2018. OS FOIA has now incorporated comments and received clearance from all other parties.

As I understand the current policy, OS FOIA must receive your affirmative clearance prior to release of material related to the Secretary. Please find the updated files attached below. Can you clear this material at this time?

Thanks,
Justin

On Wed, Jun 6, 2018 at 12:32 PM, OS, OS FOIA <osfoia@ios.doi.gov> wrote:

All,

Pursuant to the [Awareness Process for FOIA Productions](#) memorandum, dated May 24, 2018, I am seeking comments from all PAS, NCSE, or Schedule C employees whose names appear in the attached records.

If you are receiving this message, then your name appears in one or both of the attached files. In accordance with the aforementioned memorandum, **you have up to 72 hours to review and comment on these records.** If no comment is received, then the Department will assume you have none.

Assistants for Secretary Zinke and Deputy Secretary Bernhardt should note that these records may concern both the assistants and principles. They should be reviewed as such.

Thank you for your attention to this matter.

Justin

--

Department of the Interior
Office of the Secretary, FOIA Office
1849 C Street, NW, MS 7328
Washington, D.C. 20240
os_foia@ios.doi.gov
(202) 513 0765 phone
(202) 219 2374 fax

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Department of the Interior
Office of the Secretary, FOIA Office
1849 C Street, NW, MS 7328
Washington, D.C. 20240
os_foia@ios.doi.gov
(202) 513 0765 phone
(202) 219 2374 fax

EXHIBIT K

To: Joseph Balash[joseph_balash@ios.doi.gov]; Caroline Boulton[caroline_boulton@ios.doi.gov]; Wesley Bullock[linor_bullock@ios.doi.gov]; Brenda Burman[bburman@usbr.gov]; James Cason[james_cason@ios.doi.gov]; Micah Chambers[micah_chambers@ios.doi.gov]; Gavin Clarkson[gavin.clarkson@bia.gov]; Susan Combs[susan_combs@ios.doi.gov]; Natalie Davis[natalie_davis@ios.doi.gov]; Blake Deeley[blake_deeley@ios.doi.gov]; Vincent Devito[linor_devito@ios.doi.gov]; Douglas Domenech[douglas_domenech@ios.doi.gov]; William Dove[linor_dove@ios.doi.gov]; Leila Getto[lino_getto@ios.doi.gov]; Richard Goeken[linor.goeken@sol.doi.gov]; Scott Hommel[scott_hommel@ios.doi.gov]; Daniel Jorjani[linor.jorjani@sol.doi.gov]; Gary Lawkowski[gary_lawkowski@ios.doi.gov]; Katharine MacGregor[linorh_macgregor@ios.doi.gov]; Downey Magallanes[downey_magallanes@ios.doi.gov]; Lori Mashburn[lori_mashburn@ios.doi.gov]; Rick May[rick_may@ios.doi.gov]; Alan Mikkelsen[alan_mikkelsen@ios.doi.gov]; Eli Nachmany[eli_nachmany@ios.doi.gov]; Russell Newell[linor_newell@ios.doi.gov]; Greg Sheehan[greg_j_sheehan@fws.gov]; Heather[heather_swift@ios.doi.gov]; John Tahsuda[john.tahsuda@bia.gov]; Aaron Thiele[aaron_thiele@ios.doi.gov]; Todd Willens[todd_willens@ios.doi.gov]; Gareth Rees[gareth_rees@ios.doi.gov]; Elinor Renner[elinor_renner@ios.doi.gov]; Elinor Renner[elinor_werner@ios.doi.gov]
Cc: OS FOIA OS[osfoia@ios.doi.gov]
From: Wilkinson, Justin
Sent: 2018-07-09T14:06:58-04:00
Importance: Normal
Subject: Awareness Review for Active Litigation - 1:17-cv-01779-RDM/OS-2017-00938
Received: 2018-07-09T14:08:22-04:00
[17-00938qa.pdf](#)
[00938da \(Mashburn attachments incorporated p.2\).pdf](#)

All,

Pursuant to the [Awareness Process for FOIA Productions](#) memorandum, dated May 24, 2018, I am seeking comments from all PAS, NCSE, or Schedule C employees whose names appear in the attached records.

If you are receiving this message, then your name appears in one or both of the attached files. In accordance with the aforementioned memorandum, **you have up to 72 hours to review and comment on these records**. If no comment is received, then the Department will assume you have none.

Assistants for Secretary Zinke and Deputy Secretary Bernhardt should note that these records may concern both the assistants and principles. They should be reviewed as such.

Thank you for your attention to this matter.

Justin

--

Justin P. Wilkinson
Department of the Interior
Office of the Secretary, FOIA Office
1849 C Street, NW, MS 7328
Washington, D.C. 20240
Justin.Wilkinson@ios.doi.gov
(202) 513 0765 phone
(202) 565 1109 direct line
(202) 219 2374 fax

EXHIBIT L

To: Daniel Jorjani[daniel.jorjani@sol.doi.gov]; Robert Howarth[robert_howarth@ios.doi.gov];
Downey Magallanes[downey_magallanes@ios.doi.gov]; Wilkinson, Justin[justin_wilkinson@ios.doi.gov]
From: Lohr, Gabriel
Sent: 2018-07-12T12:00:22-04:00
Importance: Normal
Subject: HOLD - Awareness Review for Active Litigation - 1:17-cv-01779-RDM/OS-2017-00938
Received: 2018-07-12T12:00:52-04:00

Attorney-Client / Attorney Work Product Privileged

All,



Thanks,

Gabe
Gabriel D. Lohr
Attorney-Advisor, Branch of General Legal Services
Division of General Law, Office of the Solicitor
U.S. Department of the Interior
(202) 513-0512
(202) 208-6475 (Fax)

EXHIBIT M



704C East 13th Street, Suite 568
Whitefish, MT 59937
406-438-1918

FOIA Officer
Office of the Secretary
US Department of the Interior
Submitted via webform at <https://www.doi.gov/foia/contact-us>

May 9, 2017

FOIA REQUEST

Dear Records Request Officer:

Pursuant to the Freedom of Information Act, I request access to and copies of all correspondence held by the Department of the Interior that was sent by or received from the Office of Senator Rob Portman, including correspondence from staff members, at any point since January 20, 2017.

Additionally, I request access to and copies of call logs and calendar entries from the Office of Legislative Affairs or the Office of the Secretary showing correspondence or meetings with Senator Portman or members of his staff during this time-period.

This should specifically include all correspondence with, calendar entries involving, and call logs noting correspondence with Patrick Orth, a Legislative Assistant in Senator Portman's Office since January of 2016 and former lobbyist for America's Natural Gas Alliance.¹

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 43 C.F.R. § 2.45, Western Values Project requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. § 552(a)(4)(A)(iii).²

¹ Lobbying Report for America's Natural Gas Alliance, 2015 (Q1)

² See, e.g., *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

Western Values Project requests a waiver of fees because disclosure of the requested information is “in the public interest because it is likely to contribute significantly to public understanding” of government operations and is not “primarily in the commercial interest of the requester.”³ The disclosure of the information sought under this request will document and reveal the operations of the federal government, including how public funds are spent and how officials conduct the public’s business.

This request is primarily and fundamentally for non-commercial purposes. As a project of a 501(c)(3) organization, Western Values Project does not have a commercial purpose and the release of the information requested is not in Western Values Project’s financial interest. Western Values Project’s mission is to give a voice to Western values in the national conversation about resource development and public lands conservation, a space too often dominated by industry lobbyists and their government allies. Western Values Project will use the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. Western Values Project will also make materials it gathers available on our public website <http://www.westernvaluesproject.org/>.

Accordingly, Western Values Project qualifies for a fee waiver.

Application for Expedited Processing

Pursuant to 5 U.S.C. § 552(a)(6)(E)(1) and 43 C.F.R. § 2.20(a)(2)(iii) Western Values Project requests the expedited processing of this request.

I certify to be true and correct to the best of my knowledge and belief, that there is widespread and exceptional media interest and there exist possible questions concerning the government’s integrity, which affect public confidence. Senator Portman’s support for repealing the Interior Department’s Methane and Waste Prevention Rule waste was only announced on May 8, 2017.⁴

There is substantial public interest among the Senator’s constituents and the general public regarding the decision-making process that led to Senator Portman’s decision, specifically considering the fact that one of his staff members – Mr. Patrick Orth – lobbied on the rule as recently as 2015.

Additionally, an effort to repeal the Methane and Waste Prevention Rule is scheduled for a vote in Congress as soon as May 10, 2017.⁵ The availability of documents concerning Senator Portman and his staff’s discussion of the Methane and Waste Prevention rule with the Department, and the public’s ability to make their voice heard regarding those

³ 5 U.S.C. § 552(a)(4)(A)(iii); 43 C.F.R. § 2.45(a)(2).

⁴Kellie Linney, “Methane Rule vote likely tomorrow; Portman to vote ‘yes,’” *E&E Daily*, 05/09/17

⁵ Ibid.

records in advance of a vote on the issue or any further action, is a quintessential example of “information that has particular value that will be lost if not disseminated quickly.”⁶

Western Values Project intends to release these records to the public and provide important context on our website www.westernvaluesproject.org and to our social media audience.

Accordingly, Western Values Project’s request satisfies the criteria for expedition.

Conclusion

If possible, I would prefer to receive this information electronically via e-mail at csaeger@westernvaluesproject.org.

If you have questions or need additional information from me, please feel free to call me at 406-438-1918.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act.

Thank you for your assistance.

Sincerely,

Chris Saeger
Executive Director
Western Values Project

⁶ 43 C.F.R. § 2.20(a)(2)(iii).

EXHIBIT N



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

IN REPLY REFER TO:
7202.4-OS-2017-00544

May 9, 2017

Via email: csaeger@westernvaluesproject.org

Chris Saeger
704C East 13th St.
Suite 568
Whitefish, MT 59937

Dear Mr. Saeger:

On May 9, 2017, you filed a Freedom of Information Act (FOIA) seeking the following:

[C]opies of all correspondence held by the Department of the Interior that was sent by or received from the Office of Senator Rob Portman, including correspondence from staff members, at any point since January 20, 2017.

Additionally, I request access to and copies of call logs and calendar entries from the Office of Legislative Affairs or the Office of the Secretary showing correspondence or meetings with Senator Portman or members of his staff during this time-period.

This should specifically include all correspondence with, calendar entries involving, and call logs noting correspondence with Patrick Orth, a Legislative Assistant in Senator Portman's Office since January of 2016 and former lobbyist for America's Natural Gas Alliance

Your request was received in the Office of the Secretary FOIA office on May 9, 2017 and assigned control number **OS-2017-00544**. Please cite this number in any future correspondence or communications with the Office of the Secretary regarding your request.

We have classified you as an "other-use" requester. As such, we may charge you for some of our search and duplication costs, but we will not charge you for our review costs; you are also entitled to up to 2 hours of search time and 100 pages of photocopies (or an equivalent volume) for free. See [43 C.F.R. § 2.39](#). If, after taking into consideration your fee category entitlements,

Mr. Chris Saeger

our processing costs are less than \$50.00, we will not bill you because the cost of collection would be greater than the fee collected. See [43 C.F.R. § 2.37\(g\)](#)

You can expect to hear from us promptly regarding the outcome of this search.

Expedited Processing

You have asked for expedited processing of your FOIA request. The Department's FOIA regulations state that a bureau will provide expedited processing if a requester demonstrates a compelling need for the records by explaining in detail how the request meets one or both of the criteria below and certifying the explanation is true and correct to the best of the requester's knowledge and belief. The two criteria are as follows:

- (1) Failure to expedite the request could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or
- (2) There is an urgency to inform the public about an actual or alleged government activity and the request is made by a person primarily engaged in disseminating information.

See [43 C.F.R § 2.20](#).

Your request does not contain enough evidence to support either of these criteria because failure to expedite the request could not reasonably be expected to pose an imminent threat and that there is not an urgency to inform the public about an actual or alleged government activity by a person primarily engaged in disseminating information. The requested information must be the type of information which has particular value that will be lost if not disseminated quickly; this ordinarily refers to a breaking news story of general public interest. Information of historical interest only or information sought for litigation or commercial activities would not qualify, nor would a news media deadline unrelated to breaking news.

Your request for expedited processing therefore has been denied.

Fee Waiver

You have asked for a waiver of all FOIA processing fees. Please be advised that we are in the process of determining whether or not your entitlements are sufficient to enable us to process your request, or if we will need to issue a formal determination on your request for a fee waiver.

Mr. Chris Saeger

You have asked for copies of agency records. According to our regulations, you may choose the format of disclosure for such records. Unless you specify otherwise, the Office of the Secretary will provide copies of responsive records on a CD-ROM disk as scanned PDF images when the responsive records exceed 50 pages.

Because we will need to consult with one or more bureaus of the Department in order to properly process your request, the Office of the Secretary FOIA office is taking a 10-workday extension under 43 C.F.R. §2.19. For the same reason, we are placing your request under the “Complex” processing track. [See 43 C.F.R. §2.15.](#)

In the interim, if you have any questions regarding the status of your request, or any of the issues discussed in this letter, you may contact Cindy Sweeney by phone at (202) 513-0765, by fax at (202) 219-2374, by e-mail at os_foia@ios.doi.gov or by mail at U.S. Department of the Interior, 1849 C St, N.W., MS-7328 MIB, Washington, D.C. 20240. You also may seek dispute resolution services from our FOIA Public Liaison, Clarice Julka.

Sincerely,

Clarice Julka
Office of the Secretary
FOIA Officer

EXHIBIT O

To: Micah Chambers[micah_chambers@ios.doi.gov]; Amanda Kaster[amanda_kaster@ios.doi.gov]; Downey Magallanes[downey_magallanes@ios.doi.gov]; Caroline Boulton[caroline_boulton@ios.doi.gov]; Heather Swift[heather_swift@ios.doi.gov]; John Bockmier[john_bockmier@ios.doi.gov]; Daniel Jorjani[daniel.jorjani@sol.doi.gov]
Cc: Lohr, Gabriel[gabriel.lohr@sol.doi.gov]; Clarice Julka[clarice_julka@ios.doi.gov]
From: Leah Fairman
Sent: 2018-07-25T10:31:52-04:00
Importance: Normal
Subject: Awareness Review - OS-2017-00544
Received: 2018-07-25T10:32:37-04:00
[17-00544qa.pdf](#)
[17-00544ca \(combined\) Redacted.pdf](#)

Good morning,

Per the Awareness Process Guidelines, I am sending you the attached documents for your awareness. They have been reviewed by Gabe Lohr (CC'd here) in SOL, and are set to be released in response to FOIA request OS-2017-00544 on Monday, July 30, 2018. Also attached is the original FOIA request.

V/r,
Leah

--

Leah Fairman
Department of the Interior
Office of the Secretary, FOIA Office
1849 C Street, NW, MS 7328
Washington, D.C. 20240
Leah_Fairman@ios.doi.gov
(202) 513 0765 phone
(202) 565 1076 direct line
(202) 219 2374 fax

EXHIBIT P

To: Leah Fairman[leah_fairman@ios.doi.gov]
Cc: Amanda Kaster[amanda_kaster@ios.doi.gov]; Downey Magallanes[downey_magallanes@ios.doi.gov]; Caroline Boulton[caroline_boulton@ios.doi.gov]; Heather Swift[heather_swift@ios.doi.gov]; John Bockmier[john_bockmier@ios.doi.gov]; Daniel Jorjani[daniel.jorjani@sol.doi.gov]; Lohr, Gabriel[gabriel.lohr@sol.doi.gov]; Clarice Julka[clarice_julka@ios.doi.gov]
From: Chambers, Micah
Sent: 2018-07-25T10:53:48-04:00
Importance: Normal
Subject: Re: Awareness Review - OS-2017-00544
Received: 2018-07-25T10:54:35-04:00

(b) (5)

On Wed, Jul 25, 2018 at 10:31 AM, Leah Fairman <leah_fairman@ios.doi.gov> wrote:

Good morning,

Per the Awareness Process Guidelines, I am sending you the attached documents for your awareness. They have been reviewed by Gabe Lohr (CC'd here) in SOL, and are set to be released in response to FOIA request OS-2017-00544 on Monday, July 30, 2018. Also attached is the original FOIA request.

V/r,
Leah

--

Leah Fairman
Department of the Interior
Office of the Secretary, FOIA Office
1849 C Street, NW, MS 7328
Washington, D.C. 20240
Leah_Fairman@ios.doi.gov
(202) 513 0765 phone
(202) 565 1076 direct line
(202) 219 2374 fax

--

Micah Chambers
Deputy Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

EXHIBIT Q

To: Chambers, Micah[micah_chambers@ios.doi.gov]
Cc: Leah Fairman[leah_fairman@ios.doi.gov]; Amanda Kaster[amanda_kaster@ios.doi.gov]; Downey Magallanes[downey_magallanes@ios.doi.gov]; Caroline Boulton[caroline_boulton@ios.doi.gov]; Heather Swift[heather_swift@ios.doi.gov]; John Bockmier[john_bockmier@ios.doi.gov]; Daniel Jorjani[daniel.jorjani@sol.doi.gov]; Clarice Julka[clarice_julka@ios.doi.gov]; Tony Irish[tony.irish@sol.doi.gov]; Timothy Murphy[timothy.murphy@sol.doi.gov]
From: Lohr, Gabriel
Sent: 2018-07-25T15:05:35-04:00
Importance: Normal
Subject: Re: Awareness Review - OS-2017-00544
Received: 2018-07-25T15:06:01-04:00

All,

I spoke with Leah and Micah regarding this already, but I am documenting it here.

(b) (5)

Please continue to keep General Law in the loop regarding responsiveness determinations on email chains and other digital communications. Despite the longstanding use of electronic communications, their status as "records" for FOIA and Federal Records Act purposes is an evolving field.

Please call or email with questions.

Thanks,

Gabe

Gabriel D. Lohr
Attorney-Advisor, Branch of General Legal Services
Division of General Law, Office of the Solicitor
U.S. Department of the Interior
(202) 513-0512
(202) 208-6475 (Fax)

On Wed, Jul 25, 2018 at 10:53 AM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

(b) (5)

On Wed, Jul 25, 2018 at 10:31 AM, Leah Fairman <leah_fairman@ios.doi.gov> wrote:

Good morning,

Per the Awareness Process Guidelines, I am sending you the attached documents for your awareness. They have been reviewed by Gabe Lohr (CC'd here) in SOL, and are set to be released in response to FOIA request OS-2017-00544 on Monday, July 30, 2018. Also attached is the original FOIA request.

V/r,
Leah

--

Leah Fairman
Department of the Interior
Office of the Secretary, FOIA Office
1849 C Street, NW, MS 7328
Washington, D.C. 20240
Leah_Fairman@ios.doi.gov
(202) 513 0765 phone
(202) 565 1076 direct line
(202) 219 2374 fax

--

Micah Chambers
Deputy Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

EXHIBIT R



704C East 13th Street, Suite 568
Whitefish, MT 59937
406-438-1918

FOIA Officer
United States Geological Survey
5522 Research Park Drive
Baltimore, MD 21228
E-mail: foia@usgs.gov

March 16, 2018

FOIA REQUEST

Dear Records Request Officer:

Pursuant to the Freedom of Information Act, I request access to and copies of all correspondence, including but not limited to letters, texts, emails, and faxes, to or from the following United States Geological Survey officials from December 11, 2017 to December 22, 2017:

- Acting Director William Werkhesier
- Deputy Acting Director David Applegate
- Chief of Staff Judy Nowkowski
- Associate Director, Communications and Publishing, Betsy Hildebrandt
- Murray Hitzman
- Larry Meinert

I also request access to and copies of all correspondence, including but not limited to letters, texts, emails, and faxes, to or from the above list of USGS officials and the below list of Department of Interior officials at any point since December 9, 2017:

- Secretary Ryan Zinke
- Deputy Secretary David Bernhardt
- Todd Willens
- Steven Howke
- Downey Magallanes
- Andrea Travnicek
- Tim Petty
- Austin Ewell
- Ryan Nichols
- Vincent DeVito

- Caroline Boulton
- Leila Getto
- Joe Balash
- Heather Swift
- Laura Rigas

"All correspondence" should include, but not be limited to, copies of digital and hardcopy information sent by, sent to, carbon copying ("CC"), or blind carbon copying ("BCC") any of these individuals during this time period.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii), Western Values Project requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. § 552(a)(4)(A)(iii).¹

Western Values Project requests a waiver of fees because disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding" of government operations and is not "primarily in the commercial interest of the requester."² The disclosure of the information sought under this request will document and reveal the operations of the federal government, including how public funds are spent and how officials conduct the public's business.

This request is primarily and fundamentally for non-commercial purposes. As a project of a 501(c)(3) organization, Western Values Project does not have a commercial purpose and the release of the information requested is not in Western Values Project's financial interest. Western Values Project's mission is to give a voice to Western values in the national conversation about resource development and public lands conservation, a space too often dominated by industry lobbyists and their government allies. Western Values Project will use the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. Western Values Project will also make materials it gathers available on our public website <http://www.westernvaluesproject.org/>.

Accordingly, Western Values Project qualifies for a fee waiver.

Conclusion

If possible, I would prefer to receive this information electronically via e-mail at csaeger@westernvaluesproject.org.

¹ See, e.g., *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

² 5 U.S.C. § 552(a)(4)(A)(iii)

If you have questions or need additional information from me, please feel free to call me at (406) 438-1918.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. If any documents are withheld based on the Agency's interpretation of any exemption, we request that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). Specifically, this *Vaughn* index should describe withheld documents with enough specificity as to determine whether the material is exempt under the act and must describe each document or portion withheld.

Thank you for your assistance.

Sincerely,

Chris Saeger
Executive Director
Western Values Project